certain cases is even permitted to inherit from his father.[18] So also, adopted children are, in most states, made, by statute, heir to the adoptive parent.[19] Nor can these enactments be interpreted, like that in the principal case, as mere assignments of the state's rights of escheat, since they frequently provide that the statutory heir shall inherit share and share alike with the natural heirs of the intestate,[20] in which case, there is of course, no right of escheat to be assigned. In view, therefore, of the differences which from the earliest days have marked the rules of descent, not only as between different countries, but also within the realm of England, and which now distinguish our American statutory laws of inheritance, it is difficult to sustain the elaborate and artificial interpretation placed upon the statute under consideration in the principal case. It is submitted that statutory heirs should be accorded all the rights, including citation to the probate of a will, which the law confers upon those heirs who have been said to be created by natural law.[21]

VALIDITY OF CORPORATIONS FORMED THROUGH DUMMIES BY OTHER CORPORATIONS.—In view of the prevalence of the practice among corporations of organizing subsidiaries, and the frequency with which dummies are used in the creation of these and other corporations, it is surprising how little the validity of such corporate organizations has been adjudicated. While every corporation exists by virtue of the action of the state creating it, which may vary with every jurisdiction and every corporation therein, nevertheless in all the states of this country the legislatures have adopted general corporation laws substantially similar in character. Some of these authorize any persons, not less than a specified number, to form a corporation, but many others in addition require a stock subscription by the incorporators.[1] Where the latter form of legislation prevails, the creation of a corporation by other corporations would immediately raise the question of the right of one corporation to hold stock in another.

In this country it used to be generally regarded as *ultra vires* for one private corporation to acquire the stock of another,[2] except pos-

[18] *Ibid.*, § 3152. *E. g.* New Mexico Statutes (Codification 1915) § 1850.

[19] *Ibid.*, § 6847.

[20] N. Y. Consol. Laws, Ch. 14; Laws of 1909, Ch. 19, § 114; Mass. Rev. Laws (1902) Ch. 154, § 7; Utah Compiled Laws (1907) § 9.

[21] *Cf.* Matter of Gregory (N. Y. 1896) 15 Misc. 407, 37 N. Y. Supp. 925, where the right of a statutory heir to contest probate of a will was not questioned, though the will was sustained. See also, Hayden *v.* Barrett (1899) 172 Mass. 412, 52 N. E. 530; Buckley *v.* Frasier (1890) 153 Mass. 525, 57 N. E. 768; Butterfield *v.* Sawyer (1900) 187 Ill. 598, 58 N. E. 602; Flannigan *v.* Howard (1902) 200 Ill. 396, 65 N. E. 782.

[1] 1 Morawetz, Private Corporations, § 27; 1 Thompson, Corporations (2nd ed.) § 171. An example of the first class is Ohio Gen. Code, § 8625-7; and of the second, N. Y. Cons. Laws, c. 4, § 2.

[2] Central R. R. *v.* Collins (1869) 40 Ga. 582; Railway Co. *v.* Iron Co. (1888) 46 Ohio 44; Martin *v.* Ohio Stove Co. (1898) 78 Ill. App. 105. *Contra,* Booth *v.* Robinson (1881) 55 Md. 419. If a corporation could not buy stock, its subscription would, of course, be *ultra vires.* Knowles *v.* Sandercock (1895) 107 Cal. 629, 40 Pac. 1047; Peshtigo Co. *v.* Gt. Western Tel. Co. (1893) 50 Ill. App. 624; Nassau Bank *v.* Jones (1889) 95 N. Y. 115; Mechanics etc. Assn. *v.* Meriden Agency Co. (1855) 24 Conn. 159.

sibly in satisfaction of a debt,[3] unless the charter or general law conferred such authority. Whether an authorization might be included in the articles of a corporation, organized under a general law silent on the subject, is a point on which authorities differ.[4] But now by charter and general law corporations are usually endowed with the power of holding stocks in other corporations.[5] Since the method of acquisition is usually unlimited, it would seem to include subscription to the stock of new corporations.[6] A corporation may thus subscribe directly and one with the right to subscribe may ordinarily exercise the right by an agent or trustee.[7] Even if the principal were incompetent, the actual subscriber might be held personally liable, and the subscription would be valid.[8] But various cases have denied the right to subscribe when the corporation by so doing would act as an incorporator.[9] Whether or not an incorporator is required to be a stockholder, the capacity of a corporation to act as such is the essential question which we must consider.

It has never been seriously contended that a corporation could sign the articles in its own name, but the general practice is rather, for officers or agents to sign individually in behalf of the company. This has been called an attempt to do indirectly what cannot be done directly.[10] But it is usually regarded as sufficient to have the formalities complied with,[11] and one man, who could not by himself form a corporation, is generally allowed to do so by signing with members of his family or clerks as dummies.[12] Nominal incorporators are

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[3]Howe *v.* Boston Carpet Co. (1860) 82 Mass. 493; see Converse *v.* Emerson, Talcott & Co. (1909) 242 Ill. 619, 90 N. E. 269.

[4]That such a provision is invalid, see People *v.* Chicago Gas Trust Co. (1889) 130 Ill. 268, 22 N. E. 798; but *contra, In re* Barned's Banking Co. (1867) L. R. 3 Ch. *105.

[5]Ohio Gen. Code, § 8683; N. Y. Consol. Laws, c. 59, § 52.

[6]Rubino *v.* Pressed Steel Car Co. (N. J. Eq. 1903) 53 Atl. 1050, changed now by Laws of 1913, c. 18, N. J. P. L. 1913, p. 32, Park Heights etc. Co. *v.* Brooks & Brooks Corp. (N. J. L. 1915) 94 Atl. 83; Postal Tel. Cable Co. *v.* Oregon S. L. R. R. (1901) 23 Utah 474, 65 Pac. 735; but see Commercial Fire Ins. Co. *v.* Board of Revenue (1892) 99 Ala. 1, 14 So. 490.

[7]State *v.* Superior Ct. (1906) 44 Wash. 108, 87 Pac. 40; see 1 Cook, Corporations (6th ed.) § 68.

[8]State *v.* Superior Ct., *supra*; see Boatmen's Bank *v.* Gillespie (1908) 209 Mo. 217, 108 S. W. 74.

[9]Denny Hotel Co. *v.* Schram (1893) 6 Wash. 134, 32 Pac. 1002; Nebraska Shirt Co. *v.* Horton (Neb. 1903) 93 N. W. 225.

[10]Central R. R. of N. J. *v.* Pennsylvania R. R. (1879) 31 N. J. Eq. 475, reversed, National Docks Ry. *v.* Central R. R. of N. J. (1880) 32 N. J. Eq. 755; *cf.* Montgomery *v.* Forbes (1889) 148 Mass. 249, 49 N. E. 342.

[11]Aurora & Cincinnati R. R. *v.* City of Lawrenceburgh (1877) 56 Ind. 80; James Pott & Co. *v.* Schmucker (1897) 84 Md. 535, 36 Atl. 592. So also a merely nominal holder of stock may act as a director, People *v.* Lihme (1915) 269 Ill. 351, 109 N. E. 1051.

[12]Salomon *v.* A. Salomon & Co. Ltd. [1897] A. C. 22; Rielle *v.* Reid (1899) 26 Ont. App. 54; Irvine Co. *v.* Bond (C. C. 1896) 74 Fed. 849. The cases are not uniform, as may be seen from the discussion in 2 Machen, Corporations, § 1084.

apparently sufficient,[13] especially under statutes which place on them no obligation to subscribe, leaving them little more than subscription agents.[14] Under such a statute in Ohio a corporation formed by persons connected with a law firm in the interest of three other corporations, who subscribed to the stock, was held to have an existence, *de facto* at least in the recent case of *Kardo Co.* v. *Adams* (C. C. A. 6th Cir. Feb. 18, 1916) not yet reported. This decision, like many others on this subject,[15] needed to establish a corporation *de facto* only, the existence of which is recognized by the federal courts in spite of lack of capacity on the part of the incorporators.[16] But Judge Hollister in his opinion seems to regard the method of incorporation as satisfying the requirements of the statute.[17] This appears in keeping with authority and with the policy of the law, which recognizes the importance for industrial development of allowing one corporation to control another by stock ownership.[18] If a corporation may purchase the control of an existing corporation adapted to its needs, it is equally essential that it may instigate the organization of a new corporation to answer this need when none already exists.[19] The only method possible, and the one sanctioned by general business usage and judicial acceptance, is through the medium of agents.

LIQUIDATION AND DISSOLUTION OF NATIONAL BANKS.—One of the various means by which it is sometimes said that a corporation may be dissolved is a voluntary dissolution by vote of the stockholders.[1] By the weight of authority, however, such a resolution by the stockholders will not, in itself, dissolve a corporation, but dissolution must be perfected by the decree of a competent court or by a special act of the

[13]Irvine Co. *v.* Bond, *supra*; State *v.* Superior Ct. (1908) 49 Wash. 390, 95 Pac. 490; State *v.* Miner (1911) 233 Mo. 312, 135 S. W. 483; but see Wechselberg *v.* Flour City Nat. Bank (C. C. A. 7th Cir. 1894) 64 Fed. 90.

[14]See Chase *v.* Lord (1879) 77 N. Y. 1; Densmore Oil Co. *v.* Densmore (1870) 64 Pa. 43; 1 Cook, Corporations (6th ed.) § 2.

[15]National Docks Ry. *v.* Central R. R. of N. J., *supra*; Windsor Glass Co. *v.* Carnegie Co. (1903) 204 Pa. 459, 54 Atl. 329.

[16]Toledo, St. L. & K. C. R. R. *v.* Continental Trust Co. (C. C. A. 6th Cir. 1899) 95 Fed. 497, *certiorari* denied (1900) 176 U. S. 219, 20 Sup. Ct. 383.

[17]There is seldom any intimation that the courts believed these corporations subject to attack by the state, and examples of successful proceedings against them in *quo warranto* are lacking.

[18]The danger of monopoly resulting is obviated by the anti-trust laws, as well as by the tendency of the courts to deny a corporation's rights to buy stock in cases where public policy would be opposed. People *v.* Chicago Gas Trust Co., *supra*; Central R. R. *v.* Collins, *supra*; see Merz Capsule Co. *v.* U. S. Capsule Co. (C. C. 1895) 67 Fed. 414.

[19]Niemeyer *v.* Little Rock Junction Ry. (1884) 43 Ark. 111; National Docks Ry. *v.* Central R. R. of N. J., *supra*; Oregon S. L. R. R. *v.* Postal Tel. Cable Co. (C. C. A. 9th Cir. 1901) 111 Fed. 842; Postal Tel. Cable Co. *v.* Oregon S. L. R. R., *supra*; Parkside Cemetery Assn. *v.* C. B. & G. L. Traction Co. (Ohio Sup. Ct. Dec. 7th, 1915) not yet reported; but see Baltimore & Ohio Tel. Co. *v.* Interstate Tel. Co. (C. C. A. 4th Cir. 1893) 54 Fed. 50; *In re* Muncie Pulp Co. (C. C. A. 2nd Cir. 1905) 139 Fed. 546, *certiorari* denied *sub nom.* Gt. Western etc. Co. *v.* Oppenheimer (1906) 202 U. S. 621, 26 Sup. Ct. 766.

[1]See 2 Cook, Corporations (6th ed.) § 628.